

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ENCOMPASS INSURANCE COMPANY OF
MASSACHUSETTS,

Plaintiff,

v.

JOSEPH D. GIAMPA, FREDERICK T.
GIAMPA, ADVANCED SPINE CENTERS, INC.
d/b/a FIRST SPINE REHAB, FUTURE
MANAGEMENT CORPORATION, FUTURE
MANAGEMENT BUSINESS TRUST, EDWARD
KENNEDY, BRIAN J. CULLINEY, D.C. and
JENNIFER MCCONNELL, D.C.,

Defendants.

Case No. 05-11693 RCL

ANSWER AND COUNTERCLAIM OF DEFENDANT
EDWARD T. KENNEDY

1. Denied.
2. The second amended complaint speaks for itself.
3. Denied.
4. Denied.
5. Denied.
6. Denied.
7. Admitted.
8. Defendant Edward Kennedy (“defendant” hereinafter) is without sufficient

knowledge to admit or deny the facts alleged in paragraph 8, and calls upon plaintiff to prove

same.

9. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 9, and calls upon plaintiff to prove same.

10. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 10, and calls upon plaintiff to prove same.

11. Admittted.

12. Admitted.

13. Denied..

14. Admitted that Advanced Spine Center d/b/a First Spine & Rehab is a Massachusetts Corporation licensed to provide chiropractic services, with a place of business at 410 School Street, Lowell, MA, otherwise denied.

15. Admitted that Future Management Corporation is a Massachusetts Corporation with a place of business at 73 Princeton Street, North Chelmsford MA that owns chiropractic offices in Massachusetts and other states, otherwise denied.

16. Admitted that Brian Culliney is a Massachusetts resident who has practiced chiropractic at First Spine & Rehab, otherwise denied.

17. Admitted that Jennifer McConnell is a Massachusetts resident who has practiced chiropractic at First Spine & Rehab, otherwise denied.

18. Calls for a legal conclusion.

19. Denied.

20. Calls for a legal conclusion.

21. Admitted.

22. Denied.

23. Admitted.

24. Calls for a legal conclusion.

25. Admitted that defendant developed business contacts with chiropractors,
otherwise denied.

26. Denied.

27. Denied.

28. Admitted that Future Management was organized in February 1997, otherwise
denied.

29. Defendant denies that he presently “owns and /or operates” in excess of 40
chiropractic clinics, otherwise defendant is without sufficient knowledge to admit or deny the
facts alleged in paragraph 29, and calls upon plaintiff to prove same.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Defendant is without sufficient knowledge to admit or deny the facts alleged in
paragraph 35 and calls upon plaintiff to prove same.

36. Defendant is without sufficient knowledge to admit or deny the facts alleged in
paragraph 36 and calls upon plaintiff to prove same.

37. Defendant is without sufficient knowledge to admit or deny the facts alleged in

paragraph 37 and calls upon plaintiff to prove same.

38. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 38, and calls upon plaintiff to prove same.

39. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 39, and calls upon plaintiff to prove same.

40. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 40, and calls upon plaintiff to prove same.

41. Denied.

42. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 42, and calls upon plaintiff to prove same.

43. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 43, and calls upon plaintiff to prove same.

44. Denied as to the allegation that false medical documentation was created and submitted by defendants, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 44, and calls upon plaintiff to prove same.

45. Denied.

46. Denied.

47. Denied

48. Denied.

49. Denied.

50. Denied.

51. Denied.

52. Admitted that Edward Kennedy has been an officer and shareholder of Future Management, otherwise denied.

53. Denied.

54. Denied.

55. Denied.

56. Denied.

57. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 57, and calls upon plaintiff to prove same.

58. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 58, and calls upon plaintiff to prove same.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

63. The statute speaks for itself.

64. The regulation speaks for itself.

65. Denied.

66. Denied.

67. Denied.

68. Denied.

69. Denied.

70. Denied.

71. Defendant is without sufficient knowledge of Brian Culliney's former patients to admit or deny that he once treated Stephanie Vinas, otherwise denied.

72. Denied.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Calls for a legal conclusion.

78. Denied.

79. Denied that defendant paid "secret runner referral kickbacks," otherwise the records speak for themselves.

80. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 80, and calls upon plaintiff to prove same.

81. Denied.

82. Denied.

83. Denied.

84. Denied.

85. Defendant is without sufficient knowledge of the alleged "medical documentation" to admit or deny the facts alleged in paragraph 85, and calls upon plaintiff to prove same.

86. Admitted.

87. Admitted.

88. Denied.

89. Denied.

90. Denied.

91. Denied.

92. Defendant is without sufficient knowledge of the alleged “medical documentation” to admit or deny the facts alleged in paragraph 85, and calls upon plaintiff to prove same.

93. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 93, and calls upon plaintiff to prove same.

94. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 94, and calls upon plaintiff to prove same.

95. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 95, and calls upon plaintiff to prove same.

96. Denied.

97. Denied.

98. Denied.

99. Denied.

100. Denied.

101. Denied.

102. Denied.

103. Denied.

104. Denied.

105. Denied.

106. Denied.

107. Denied.

108. Denied.

109. Denied.

110. Denied.

111. Denied.

112. Denied.

113. Denied.

114. Denied.

115. Denied.

116. Denied.

117. Denied.

118. Denied.

119. Denied.

120. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 120, and calls upon plaintiff to prove same.

121. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 121, and calls upon plaintiff to prove same.

122. Denied.

123. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 123, and calls upon plaintiff to prove same.

124. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 124, and calls upon plaintiff to prove same.

125. Denied.

126. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 126, and calls upon plaintiff to prove same.

127. Denied.

128. Denied.

129. Denied.

130. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 130, and calls upon plaintiff to prove same.

131. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 131 and calls upon plaintiff to prove same.

132. Denied as to “excessive,” appointments otherwise defendant is without sufficient knowledge to admit or deny, the facts alleged in paragraph 132, and calls upon plaintiff to prove same.

133. Denied.

134. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 134, and calls upon plaintiff to prove same.

135. Denied.

136. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 136, and calls upon plaintiff to prove same.

137. Denied.

138. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 137, and calls upon plaintiff to prove same.

139. Denied.

140. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 140, and calls upon plaintiff to prove same.

141. Denied.

142. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 142, and calls upon plaintiff to prove same.

143. Denied.

144. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 144, and calls upon plaintiff to prove same.

145. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 145, and calls upon plaintiff to prove same.

146. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 146, and calls upon plaintiff to prove same.

147. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 147, and calls upon plaintiff to prove same.

148. Denied.

149. Denied that Tith received “grossly excessive treatment,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 149, and calls upon plaintiff to prove same.

150. Denied.

151. Denied.

152. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 152, and calls upon plaintiff to prove same.

153. Denied.

154. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 154, and calls upon plaintiff to prove same.

155. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 155, and calls upon plaintiff to prove same.

156. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 156, and calls upon plaintiff to prove same.

157. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 157, and calls upon plaintiff to prove same.

158. Denied.

159. Denied.

160. Denied as to “excessive treatment,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 160, and calls upon plaintiff to prove same.

161. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 161, and calls upon plaintiff to prove same.

162. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 162, and calls upon plaintiff to prove same.

163. Denied.

164. Denied.

165. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 165, and calls upon plaintiff to prove same.

166. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 166, and calls upon plaintiff to prove same.

167. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 167, and calls upon plaintiff to prove same.

168. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 168, and calls upon plaintiff to prove same.

169. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 169, and calls upon plaintiff to prove same.

170. Denied.

171. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 171, and calls upon plaintiff to prove same.

172. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 172, and calls upon plaintiff to prove same.

173. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 173, and calls upon plaintiff to prove same.

174. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 174, and calls upon plaintiff to prove same.

175. Denied.

176. Denied.

177. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 177, and calls upon plaintiff to prove same.

178. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 178, and calls upon plaintiff to prove same.

179. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 179, and calls upon plaintiff to prove same.

180. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 180, and calls upon plaintiff to prove same.

181. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 181, and calls upon plaintiff to prove same.

182. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 182, and calls upon plaintiff to prove same.

183. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 183, and calls upon plaintiff to prove same.

184. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 184, and calls upon plaintiff to prove same.

185. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 185, and calls upon plaintiff to prove same.

186. Denied.

187. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 187, and calls upon plaintiff to prove same.

188. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 188, and calls upon plaintiff to prove same.

189. Denied.

190. Denied.

191. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 191, and calls upon plaintiff to prove same.

192. Denied.

193. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 193, and calls upon plaintiff to prove same.

194. Denied.

195. Denied.

196. Denied.

197. Denied.

198. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 198, and calls upon plaintiff to prove same.

199. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 199, and calls upon plaintiff to prove same.

200. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 200, and calls upon plaintiff to prove same.

201. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 201, and calls upon plaintiff to prove same.

202. Defendant is without sufficient knowledge to admit or deny the facts alleged in

paragraph 202, and calls upon plaintiff to prove same.

203. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 203, and calls upon plaintiff to prove same.

204. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 204, and calls upon plaintiff to prove same.

205. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 205, and calls upon plaintiff to prove same.

206. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 206, and calls upon plaintiff to prove same.

207. Denied.

208. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 208, and calls upon plaintiff to prove same.

209. Denied.

210. Defendant denies that treatment was “excessive, unwarranted and unreasonable, otherwise Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 110, and calls upon plaintiff to prove same.

211. Denied.

212. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 212, and calls upon plaintiff to prove same.

213. Denied.

214. Denied.

215. Defendant is without sufficient knowledge to admit or deny the facts alleged in

paragraph 215, and calls upon plaintiff to prove same.

216. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 216, and calls upon plaintiff to prove same.

217. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 217, and calls upon plaintiff to prove same.

218. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 218, and calls upon plaintiff to prove same.

219. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 219, and calls upon plaintiff to prove same.

220. Denied.

221. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 221, and calls upon plaintiff to prove same.

222. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 222, and calls upon plaintiff to prove same.

223. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 223, and calls upon plaintiff to prove same.

224. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 224, and calls upon plaintiff to prove same.

225. Denied.

226. Defendant is without sufficient knowledge of the facts alleged in paragraph 226 and calls upon plaintiff to prove same.

227. Denied.

228. Denied.

229. Denied.

230. Denied.

231. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 231, and calls upon plaintiff to prove same.

232. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 232, and calls upon plaintiff to prove same.

233. Denied.

234. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 234, and calls upon plaintiff to prove same.

235. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 235, and calls upon plaintiff to prove same.

236. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 236, and calls upon plaintiff to prove same.

237. Denied.

238. Denied.

239. Denied.

240. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 240, and calls upon plaintiff to prove same.

241. Denied.

242. Denied.

243. Defendant is without sufficient knowledge to admit or deny the facts alleged in

paragraph 243, and calls upon plaintiff to prove same.

244. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 244, and calls upon plaintiff to prove same.

245. Denied.

246. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 246, and calls upon plaintiff to prove same.

247. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 247, and calls upon plaintiff to prove same.

248. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 248, and calls upon plaintiff to prove same.

249. Denied.

250. Denied.

251. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 251, and calls upon plaintiff to prove same.

252. Denied.

253. Denied.

254. Denied.

255. Denied.

256. Denied.

257. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 257, and calls upon plaintiff to prove same.

258. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 258, and calls upon plaintiff to prove same.

259. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 259, and calls upon plaintiff to prove same.

260. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 260, and calls upon plaintiff to prove same.

261. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 261, and calls upon plaintiff to prove same.

262. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 262, and calls upon plaintiff to prove same.

263. Denied.

264. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 264, and calls upon plaintiff to prove same.

265. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 265, and calls upon plaintiff to prove same.

266. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 266, and calls upon plaintiff to prove same.

267. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 267, and calls upon plaintiff to prove same.

268. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 268, and calls upon plaintiff to prove same.

269. Denied.

270. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 270, and calls upon plaintiff to prove same.

271. Denied.

272. Denied.

273. Denied as to characterization “incredibly,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 273, and calls upon plaintiff to prove same.

274. Denied.

275. Denied.

276. Denied.

277. Denied.

278. Denied.

279. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 279, and calls upon plaintiff to prove same.

280. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 280, and calls upon plaintiff to prove same.

281. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 281, and calls upon plaintiff to prove same.

282. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 282, and calls upon plaintiff to prove same.

283. Defendant is without sufficient knowledge to admit or deny the facts alleged in

paragraph 283, and calls upon plaintiff to prove same.

284. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 284, and calls upon plaintiff to prove same.

285. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 285, and calls upon plaintiff to prove same.

286. Denied.

287. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 287, and calls upon plaintiff to prove same.

288. Denied.

289. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 206, and calls upon plaintiff to prove same.

290. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 290, and calls upon plaintiff to prove same.

291. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 291, and calls upon plaintiff to prove same.

292. Denied.

293. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 293, and calls upon plaintiff to prove same.

294. Denied.

295. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 295, and calls upon plaintiff to prove same.

296. Defendant is without sufficient knowledge to admit or deny the facts alleged in

paragraph 296, and calls upon plaintiff to prove same.

297. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 297, and calls upon plaintiff to prove same.

298. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 298, and calls upon plaintiff to prove same.

299. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 299, and calls upon plaintiff to prove same.

300. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 300, and calls upon plaintiff to prove same.

301. Denied.

302. Denied.

303. Denied.

304. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 304, and calls upon plaintiff to prove same.

305. Denied.

306. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 306, and calls upon plaintiff to prove same.,

307. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 307, and calls upon plaintiff to prove same.

308. Denied as to second sentence, otherwise defendant is without sufficient

knowledge to admit or deny the facts alleged in paragraph 308, and calls upon plaintiff to prove same.

309. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 309, and calls upon plaintiff to prove same.

310. Denied as to first sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 310, and calls upon plaintiff to prove same.

311. Denied as to first sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 311, and calls upon plaintiff to prove same.

312. Denied.

313. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 313, and calls upon plaintiff to prove same.

314. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 314, and calls upon plaintiff to prove same.

315. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 315, and calls upon plaintiff to prove same.

316. Denied as to third sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 316, and calls upon plaintiff to prove same.

317. Denied as to all facts after the word “visit,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 317, and calls upon plaintiff to prove same.

318. Denied.

319. Denied.

320. Denied.

321. Denied as to all facts after the word “and,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 321, and calls upon plaintiff to prove same.

322. Denied.

323. Defendant, is without sufficient knowledge to admit or deny the facts alleged in paragraph 323, and calls upon plaintiff to prove same.

324. Denied.

325. Denied.

326. Denied.

327. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 327, and calls upon plaintiff to prove same.

328. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 328, and calls upon plaintiff to prove same.

329. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 329, and calls upon plaintiff to prove same.

330. Denied as to (2), otherwise Defendant is without sufficient knowledge to admit or

deny the facts alleged in paragraph 330, and calls upon plaintiff to prove same.

331. Denied.

332. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 332, and calls upon plaintiff to prove same.

333. Denied.

334. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 334, and calls upon plaintiff to prove same.

335. Denied as to all facts after the word “which” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 335, and calls upon plaintiff to prove same.

336. Denied.

337. Denied.

338. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 338, and calls upon plaintiff to prove same.

339. Denied as to all facts after “despite,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 339, and calls upon plaintiff to prove same.

340. Denied.

341. Denied.

342. Denied as to all facts after “which,” otherwise Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 342, and calls upon plaintiff to prove same.

343. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 313, and calls upon plaintiff to prove same.

344. Denied as to all facts after the word “constituting” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 344, and calls upon plaintiff to prove same.

345. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 345, and calls upon plaintiff to prove same.

346. Denied.

347. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 347, and calls upon plaintiff to prove same.

348. Denied as to all facts after “which” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 348, and calls upon plaintiff to prove same.

349. Denied as to all facts after “which,” otherwise Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 349, and calls upon plaintiff to prove same.

350. Denied.

351. Denied.

352. Denied as to all facts after the word “impact,” otherwise Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 349, and calls upon plaintiff to prove same.

353. Denied as to second sentence, otherwise defendant is without sufficient

knowledge to admit or deny the facts alleged in the first sentence of paragraph 353 and calls upon plaintiff to prove same, otherwise denied.

354. Denied.

355. Denied.

356. Denied.

357. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 357, and calls upon plaintiff to prove same.

358. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 358, and calls upon plaintiff to prove same.

359. Denied.

360. Denied.

361. Denied.

362. Denied.

363. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 363, and calls upon plaintiff to prove same.

364. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 364, and calls upon plaintiff to prove same.

365. Denied.

366. Denied.

367. Denied.

368. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 368, and calls upon plaintiff to prove same.

369. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 369, and calls upon plaintiff to prove same.

370. Denied.

371. Denied.

372. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 372, and calls upon plaintiff to prove same.

373. Denied.

374. Denied.

375. Denied.

376. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 376, and calls upon plaintiff to prove same.

377. Denied.

378. Denied as to all facts after the word “and,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 378, and calls upon plaintiff to prove same.

379. Denied.

380. Denied as to “which is warranted,” otherwise Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 380, and calls upon plaintiff to prove same.

381. Denied.

382. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 382, and calls upon plaintiff to prove same.

383. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 383, and calls upon plaintiff to prove same.

384. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 384, and calls upon plaintiff to prove same.

385. Denied.

386. Denied as to first sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 386, and calls upon plaintiff to prove same.

387. Denied.

388. Denied.

389. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 389, and calls upon plaintiff to prove same.

390. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 390, and calls upon plaintiff to prove same.

391. Denied.

392. Denied.

393. Denied.

394. Denied.

395. Defendant is without sufficient knowledge to admit or deny the facts alleged in

paragraph 395, and calls upon plaintiff to prove same.

396. Denied.

397. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 397, and calls upon plaintiff to prove same.

398. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 398, and calls upon plaintiff to prove same.

399. Denied.

400. Denied as to all facts after the word “yet,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 400, and calls upon plaintiff to prove same.

401. Denied as to all facts after “even,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 401, and calls upon plaintiff to prove same

402. Denied as to all facts after “so,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 402, and calls upon plaintiff to prove same

403. Denied.

404. Denied.

405. Denied.

406. Denied.

407. Denied.

408. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 408, and calls upon plaintiff to prove same.

409. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 409, and calls upon plaintiff to prove same

410. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 410, and calls upon plaintiff to prove same.

411. Denied.

412. Denied.

413. Denied.

414. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 414, and calls upon plaintiff to prove same.

415. Denied.

416. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 416, and calls upon plaintiff to prove same.

417. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 417, and calls upon plaintiff to prove same.

418. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 418, and calls upon plaintiff to prove same.

419. Denied as to first and third sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 419 and calls upon plaintiff to prove

same.

420. Denied.

421. Denied.

422. Denied.

423. Denied.

424. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 424 and calls upon plaintiff to prove same.

425. Denied.

426. Denied.

427. Denied.

428. Denied.

429. Denied.

430. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 430, and calls upon plaintiff to prove same.

431. Denied.

432. Denied.

433. Denied.

434. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 434, and calls upon plaintiff to prove same.

435. Denied.

436. Denied.

437. Denied.

438. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 438, and calls upon plaintiff to prove same.

439. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 439, and calls upon plaintiff to prove same.

440. Denied.

441. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 441, and calls upon plaintiff to prove same.

442. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 442, and calls upon plaintiff to prove same.

443. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 443, and calls upon plaintiff to prove same.

444. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 444, and calls upon plaintiff to prove same.

445. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 445, and calls upon plaintiff to prove same.

446. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 446, and calls upon plaintiff to prove same.

447. Denied.

448. Denied.

449. Denied.

450. Defendant lacks sufficient knowledge to admit or deny the facts alleged in paragraph 450, and calls upon plaintiff to prove same.

451. Denied.

452. Denied as to “grossly excessive,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 452, and calls upon plaintiff to prove same.

453. Denied as to “excessive,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 453, and calls upon plaintiff to prove same.

454. Denied as to “excessive,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 454, and calls upon plaintiff to prove same.

455. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 455, and calls upon plaintiff to prove same.

456. Denied.

457. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 457, and calls upon plaintiff to prove same.

458. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 458, and calls upon plaintiff to prove same.

459. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 459, and calls upon plaintiff to prove same.

460. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 460, and calls upon plaintiff to prove same.

461. Denied.

462. Denied.

463. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 463, and calls upon plaintiff to prove same.

464. Denied.

465. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 465, and calls upon plaintiff to prove same.

466. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 466, and calls upon plaintiff to prove same.

467. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 467, and calls upon plaintiff to prove same.

468. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 468, and calls upon plaintiff to prove same.

469. Denied.

470. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 470, and calls upon plaintiff to prove same.

471. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 471, and calls upon plaintiff to prove same.

472. Denied as to “excessive treatment,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 472, and calls upon plaintiff to prove

same.

473. Denied.

474. Denied.

475. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 475, and calls upon plaintiff to prove same.

476. Denied.

477. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 477, and calls upon plaintiff to prove same.

478. Denied.

479. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 479, and calls upon plaintiff to prove same.

480. Denied as to “excessive,” otherwise defendant is without sufficient knowledge to admit or deny, the facts alleged in paragraph 480, and calls upon plaintiff to prove same.

481. Denied.

482. Denied as to “excessive,” otherwise defendant is without sufficient knowledge to admit or deny, the facts alleged in paragraph 482, and calls upon plaintiff to prove same.

483. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 483, and calls upon plaintiff to prove same.

484. Denied.

485. Denied.

486. Defendant is without sufficient knowledge to admit or deny the facts alleged in

paragraph 486, and calls upon plaintiff to prove same.

487. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 487, and calls upon plaintiff to prove same.

488. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 488, and calls upon plaintiff to prove same.

489. Denied.

490. Denied.

491. Denied.

492. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 492, and calls upon plaintiff to prove same.

493. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 493, and calls upon plaintiff to prove same.

494. Denied.

495. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 495, and calls upon plaintiff to prove same.

496. Denied.

497. Denied.

498. Denied.

499. Denied.

500. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 500, and calls upon plaintiff to prove same.

501. Defendant is without sufficient knowledge to admit or deny the facts alleged in

paragraph 501, and calls upon plaintiff to prove same.

502. Denied.

503. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 503, and calls upon plaintiff to prove same.

504. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 504, and calls upon plaintiff to prove same.

505. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 505, and calls upon plaintiff to prove same.

506. Denied.

507. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 507, and calls upon plaintiff to prove same.

508. Denied.

509. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 509, and calls upon plaintiff to prove same.

510. Denied.

511. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 511, and calls upon plaintiff to prove same.

512. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 512, and calls upon plaintiff to prove same.

513. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 513, and calls upon plaintiff to prove same.

514. Denied.

515. Denied.

516. Denied as to “grossly excessive,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 516, and calls upon plaintiff to prove same.

517. Denied.

518. Denied.

519. Denied.

520. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 520, and calls upon plaintiff to prove same.

521. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 521, and calls upon plaintiff to prove same.

522. Denied as to “unwarranted,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 522, and calls upon plaintiff to prove same.

523. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 523, and calls upon plaintiff to prove same.

524. Denied as to all facts after the words “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 524, and calls upon plaintiff to prove same.

525. Denied.

526. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 526, and calls upon plaintiff to prove

same.

527. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 527, and calls upon plaintiff to prove same.

528. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 528, and calls upon plaintiff to prove same.

529. Denied as to fourth sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 529, and calls upon plaintiff to prove same.

530. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 530, and calls upon plaintiff to prove same.

531. Denied.

532. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 532, and calls upon plaintiff to prove same.

533. Denied.

534. Denied.

535. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 535, and calls upon plaintiff to prove same.

536. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 536, and calls upon plaintiff to prove same.

537. Denied as to third and fourth sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 537, and calls upon plaintiff to prove same.

538. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 538, and calls upon plaintiff to prove same.

539. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 539, and calls upon plaintiff to prove same.

540. Denied as to “not warranted,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 540, and calls upon plaintiff to prove same. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 540, and calls upon plaintiff to prove same.

541. Denied.

542. Denied.

543. Denied.

544. Denied.

545. Denied as to “not warranted,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 545, and calls upon plaintiff to prove same.

546. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 546, and calls upon plaintiff to prove same.

547. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 547, and calls upon plaintiff to prove same.

548. Denied.

549. Denied.

550. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 550, and calls upon plaintiff to prove same.

551. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 551, and calls upon plaintiff to prove same.

552. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 552, and calls upon plaintiff to prove same.

553. Denied as to “not warranted,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 553, and calls upon plaintiff to prove same.

554. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 554, and calls upon plaintiff to prove same.

555. Denied.

556. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 556, and calls upon plaintiff to prove same.

557. Denied.

558. Denied.

559. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 559, and calls upon plaintiff to prove same.

560. Defendant is without sufficient knowledge to admit or deny the facts alleged in

paragraph 560, and calls upon plaintiff to prove same.

561. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 561, and calls upon plaintiff to prove same.

562. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 562, and calls upon plaintiff to prove same.

563. Denied.

564. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 564, and calls upon plaintiff to prove same.

565. Denied.

566. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 566, and calls upon plaintiff to prove same.

567. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 567, and calls upon plaintiff to prove same.

568. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 568, and calls upon plaintiff to prove same.

569. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 569, and calls upon plaintiff to prove same.

570. Denied.

571. Denied.

572. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 572, and calls upon plaintiff to prove same.

573. Denied as to “not warranted,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 573, and calls upon plaintiff to prove same.

574. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 574, and calls upon plaintiff to prove same.

575. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 575, and calls upon plaintiff to prove same.

576. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 576, and calls upon plaintiff to prove same.

577. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 577, and calls upon plaintiff to prove same.

578. Denied.

579. Denied as to all facts after the word “yet,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 579, and calls upon plaintiff to prove same.

580. Denied as to “not warranted,” defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 580, and calls upon plaintiff to prove same.

581. Denied

582. Denied.

583. Denied.

584. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 584, and calls upon plaintiff to prove same.

585. Denied as to all the facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 585, and calls upon plaintiff to prove same.

586. Denied.

587. Denied as to “not warranted,” defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 587, and calls upon plaintiff to prove same.

588. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 588, and calls upon plaintiff to prove same.

589. Denied as to all the facts after the word “representing,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 589, and calls upon plaintiff to prove same.

590. Denied.

591. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 591, and calls upon plaintiff to prove same.

592. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 592, and calls upon plaintiff to prove same.

593. Denied as to all facts after the word “disabled,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 593, and calls upon plaintiff

to prove same.

594. Denied as to all facts after the word “and,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 594, and calls upon plaintiff to prove same.

595. Denied.

596. Denied.

597. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 597, and calls upon plaintiff to prove same.

598. Denied.

599. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 599, and calls upon plaintiff to prove same.

600. Denied as to “unwarranted,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 600, and calls upon plaintiff to prove same.

601. Denied.

602. Denied.

603. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 603, and calls upon plaintiff to prove same.

604. Denied as to “unwarranted,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 604, and calls upon plaintiff to prove same.

605. Denied.

606. Denied.

607. Denied as to second and third sentences, defendant is without sufficient

knowledge to admit or deny the facts alleged in paragraph 607, and calls upon plaintiff to prove same.

608. Denied.

609. Denied.

610. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 610, and calls upon plaintiff to prove same.

611. Denied.

612. Denied.

613. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 613, and calls upon plaintiff to prove same.

614. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 614, and calls upon plaintiff to prove same.

615. Denied.

616. Denied.

617. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 617, and calls upon plaintiff to prove same.

618. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 618, and calls upon plaintiff to prove same.

619. Denied.

620. Denied.

621. Denied.

622. Denied.

623. Denied.

624. Denied.

625. Denied.

626. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 626, and calls upon plaintiff to prove same.

627. Denied.

628. Denied.

629. Denied.

630. Denied.

631. Denied.

632. Denied.

633. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 633, and calls upon plaintiff to prove same.

634. Denied.

635. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 635, and calls upon plaintiff to prove same.

636. Denied.

637. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 637, and calls upon plaintiff to prove same.

638. Defendant is without sufficient knowledge to admit or deny the facts alleged in

paragraph 638, and calls upon plaintiff to prove same.

639. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 639, and calls upon plaintiff to prove same.

640. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 640, and calls upon plaintiff to prove same.

641. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 641, and calls upon plaintiff to prove same.

642. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 642, and calls upon plaintiff to prove same.

643. Denied as to first sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 643, and calls upon plaintiff to prove same.

644. Denied.

645. Denied.

646. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 646, and calls upon plaintiff to prove same.

647. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 647, and calls upon plaintiff to prove same.

648. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 648, and calls upon plaintiff to prove same.

649. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 649, and calls upon plaintiff to prove same.

650. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 650, and calls upon plaintiff to prove same.

651. Denied.

652. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 652, and calls upon plaintiff to prove same.

653. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 653, and calls upon plaintiff to prove same.

654. Denied as to “upcoded,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 654, and calls upon plaintiff to prove same.

655. Denied.

656. Denied.

657. Denied.

658. Denied.

659. Denied.

660. Denied as to third sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 660, and calls upon plaintiff to prove same.

661. Denied.

662. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 662, and calls upon plaintiff to prove same.

663. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 663, and calls upon plaintiff to prove same.

664. Denied.

665. Denied.

666. Denied.

667. Denied as to second sentence, otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 667, and calls upon plaintiff to prove same.

668. Denied.

669. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 669, and calls upon plaintiff to prove same.

670. Denied as to “upcoded,” otherwise Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 670, and calls upon plaintiff to prove same.

671. Denied.

672. Denied.

673. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 673, and calls upon plaintiff to prove same.

674. Denied as to “unwarranted,” otherwise Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 674, and calls upon plaintiff to prove same.

675. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 675, and calls upon plaintiff to prove same.

676. Denied.

677. Denied.

678. Denied.

679. Denied.

680. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 680, and calls upon plaintiff to prove same.

681. Denied.

682. Denied.

683. Denied.

684. Denied.

685. Denied.

686. Denied.

687. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 687, and calls upon plaintiff to prove same.

688. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 688, and calls upon plaintiff to prove same.

689. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 689, and calls upon plaintiff to prove same.

690. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 690, and calls upon plaintiff to prove same.

691. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 691, and calls upon plaintiff to prove same.

692. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 692, and calls upon plaintiff to prove same.

693. Defendant is without sufficient knowledge to admit or deny the facts alleged in

paragraph 693, and calls upon plaintiff to prove same.

694. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 694, and calls upon plaintiff to prove same.

695. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 695, and calls upon plaintiff to prove same.

696. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 696, and calls upon plaintiff to prove same.

697. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 697, and calls upon plaintiff to prove same.

698. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 698, and calls upon plaintiff to prove same.

699. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 699, and calls upon plaintiff to prove same.

700. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 700, and calls upon plaintiff to prove same.

701. Denied.

702. Denied.

703. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 703, and calls upon plaintiff to prove same.

704. Denied.

705. Denied.

706. Denied.

707. Denied.

708. Denied.

709. Denied.

710. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 710, and calls upon plaintiff to prove same.

711. Denied as to all facts after the word “which,” otherwise defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 711, and calls upon plaintiff to prove same.

712. Denied.

713. Denied.

714. Denied.

715. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 715, and calls upon plaintiff to prove same.

716. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 716, and calls upon plaintiff to prove same.

717. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 717, and calls upon plaintiff to prove same.

718. Denied.

719. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 719, and calls upon plaintiff to prove same.

720. Calls for legal conclusion.

721. Denied.

722. Denied.

723. Denied.

724. Denied.

725. Denied.

726. Denied.

727. Denied.

728. Denied.

729. Denied.

730. Denied.

731. Denied.

732. Denied.

733. Denied.

734. Denied.

735. Denied.

736. Denied.

737. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 737, and calls upon plaintiff to prove same.

738. Denied.

739. Denied.

740. Denied.

741. Denied.

742. Denied.

743. Denied.

744. Denied.

745. Denied.

746. Denied.

747. Denied.

748. Denied.

749. Denied.

750. Denied.

751. Defendant incorporates by reference all paragraphs set forth above.

752. Denied.

753. Denied.

754. Denied.

755. Denied.

756. Denied.

757. Denied.

758. Denied.

759. Denied.

760. Denied.

761. Defendant is without sufficient knowledge to admit or deny the facts alleged in paragraph 761, and calls upon plaintiff to prove same.

762. Denied.

763. Calls for legal conclusion.

- 764. Calls for legal conclusion.
- 765. Denied.
- 766. Calls for legal conclusion.
- 767. Denied.
- 768. Denied.
- 769. Defendant incorporates by reference all paragraphs set forth above.
- 770. Calls for legal conclusion.
- 771. Denied.
- 772. Denied.
- 773. Denied.
- 774. Denied.
- 775. Denied.
- 776. Defendant incorporates by reference all paragraphs set forth above.
- 777. Denied.
- 778. Denied.
- 779. Denied.
- 780. Defendant incorporates by reference all paragraphs set forth above.
- 781. The statutes speaks for itself.
- 782. Denied.
- 783. Denied.
- 784. Denied.
- 785. Denied.

- 786. Denied.
- 787. Denied.
- 788. Denied.
- 789. Denied.
- 790. Defendant incorporates by reference all paragraphs set forth above.
- 791. Denied.
- 792. Denied.
- 793. Denied.
- 794. Defendant incorporates by reference all paragraphs set forth above.
- 795. Denied.
- 796. Denied.
- 797. Denied.
- 798. Denied.
- 799. Denied.
- 800. Denied.
- 801. Defendant incorporates by reference all paragraphs set forth above.
- 802. Denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by the applicable Statute of Limitations.

SECOND AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by the applicable Statute of Repose.

THIRD AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by the doctrine of Waiver.

FIFTH AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by the doctrine of res judicata.

SIXTH AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by the doctrine of collateral estoppel.

SEVENTH AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by the doctrine of Laches

EIGHT AFFIRMATIVE DEFENSE

The Plaintiff's RICO and fraud claims are barred by an absence of justifiable reliance.

NINTH AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by the Defendant's good faith.

TENTH AFFIRMATIVE DEFENSE

The Plaintiff's RICO claims are barred by the theory of non-predicate misconduct.

TENTH AFFIRMATIVE DEFENSE

The Plaintiff's RICO claims are barred by the inter-corporate conspiracy defense.

ELEVENTH AFFIRMATIVE DEFENSE

The Plaintiff's claims are barred by their failure to join necessary parties.

COUNTERCLAIM OF DEFENDANT EDWARD KENNEDY

Parties

1. Counterclaim Plaintiff Edward Kennedy ("Kennedy") is a person residing at, Massachusetts.
2. Counterclaim Defendant Encompass Insurance Company of Massachusetts ("Encompass") is, on information and belief, a Massachusetts corporation with a regular place of business in Quincy, Massachusetts.

Jurisdiction and Venue

3. Jurisdiction over this compulsory counterclaim is conferred on the Court by 28 U.S.C. §1367.
4. Venue in this district is proper pursuant to 28 U.S.C. §1391(c).

Facts Common To All Counts

5. On or about August 16, 2005, Encompass initiated the present action in which it named Kennedy as an individual defendant.
6. On or about August 18, 2005, Encompass issued a press release (the "Press Release") in which it named Kennedy as a defendant in a "\$1.8 million dollar fraud lawsuit." A true and accurate copy of the Press Release is attached hereto as Exhibit A.
7. By this statement (which refers to the present action), the Press Release grossly exaggerated both the nature of this case and the amount in controversy.

8. Encompass intentionally engaged in this gross exaggeration with the intent and effect of damaging the reputation of Kennedy and the remaining defendants to this action (or damaging them to a far greater extent than would have occurred had Encompass accurately described the lawsuit).

9. Moreover, because Encompass filed the present action without any good faith basis for its allegations against Kennedy, it was reckless in issuing the Press Release at all.

10. The Press Release was published by at least one trade publication, and by Reuters, Yahoo Business, Business Wire, and Insurance NewsNet.

11. On or about February 1 through February 5, 2006, the grossly exaggerated and defamatory description of this case was published verbatim, to an unknown number of attendees of a conference sponsored by the health policy and management section of the American Physical Therapy Association. See Exhibit B.

COUNT I – DEFAMATION AND LIBEL

12. Kennedy repeats and realleges the allegations of the above-numbered paragraphs as if set forth in full herein.

13. In issuing the Press Release, Encompass communicated defamatory statements about Kennedy to third parties.

14. The statements made by Encompass were of the type which could and would be reasonably expected to damage Kennedy's professional reputations in the community.

15. Encompass was reckless and/or negligent in issuing the Press Release.

16. Kennedy has suffered damages as a result of the defamatory press release issued by Encompass

COUNT II – INTENTIONAL INTERFERENCE WITH BUSINESS RELATIONS

17. Kennedy repeats and realleges the allegations of the above-numbered paragraphs as if set forth in full herein.

18. Kennedy has an advantageous business relationship with Future Management Corporation (“Future Management”).

19. By publishing a defamatory press release, Encompass has caused the performance of the agreement between Kennedy and Future Management.

20. This interference by Encompass is wrongful in means and/or motive.

21. Kennedy has suffered damages as a result of the interference by Encompass with his contractual relations.

COUNT III – VIOLATION OF G.L. c. 93A

22. Kennedy repeats and realleges the allegations of the above-numbered paragraphs as if set forth in full herein.

23. At all times relevant to this matter, the parties were all engaged in trade or commerce as defined by G.L. c. 93A.

24. By issuing a defamatory press release concerning the present lawsuit, Encompass has engaged in unfair and deceptive acts or practices.

25. The acts and practices complained of took place primarily and substantially within the Commonwealth of Massachusetts and were done knowingly and willfully.

26. Kennedy has suffered damages as a result of these violations by Encompass of G.L. c. 93A.

WHEREFORE, Defendant and Plaintiff-In-Counterclaim Edward Kennedy prays for the following relief:

1. That this Court enter judgment, in favor of Edward Kennedy, on all counts of plaintiff's Complaint.
2. That the Court enter judgment in favor of Edward Kennedy on all counts of this Counterclaim;
3. That the Court award Edward Kennedy his actual damages, statutory damages, costs, expenses, and attorney's fees;
4. That the Court award Edward Kennedy multiple damages, costs, and attorney's fees pursuant to G.L. c. 93A;
5. That the Court order Encompass to issue a press release retracting any and all misrepresentations in its earlier, defamatory press release;
6. That the Court order Encompass to purchase advertising in major trade journals and with each publication which published the original defamatory press release retracting any and all misrepresentations in its earlier, defamatory press release; and
7. That the Court award such other relief as it deems just and proper.

A TRIAL BY JURY IS DEMANDED ON ALL COUNTS SO TRIABLE.

RESPECTFULLY SUBMITTED,
EDWARD T. KENNEDY,
By his attorneys,

/s/ Daniel Treger, Esq.

Daniel Treger, Esq.
B.B.O. #562147
Phillips & Angley
One Bowdoin Square
Boston, MA 02114
617-367-8787

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants on this day, December 13, 2006.

/s/ Daniel Treger, Esq.

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NEWS

FOR IMMEDIATE RELEASE

Contact: Bill Mellander
(847) 402-5600

Boston Area Chiropractors Named In Million-Dollar Fraud Case

LOWELL, Mass., August 18, 2005 --- Owners and employees of First Spine and Rehab, a Lowell Massachusetts chiropractic clinic, have been named as defendants in a \$1.8 million fraud lawsuit --- the result of a six-month investigation led by Encompass Insurance Company of Massachusetts.

According to court documents, Joseph Giampa, Frederick Giampa and Edward Kennedy are accused of violating the Racketeer Influenced and Corrupt Organizations Act (RICO), the Massachusetts Consumer Protection Act and engaging in common law fraud and civil conspiracy.

Encompass filed suit in the U.S. District Court for the District of Massachusetts against the Giampas, Kennedy, as well as Brian Culliney, Jennifer McConnell, the company First Spine and Rehab of Lowell and Future Management Corporation.

According to the suit, the Giampas and other chiropractors in the Lowell clinic allegedly "engaged in a scheme to defraud insurance companies, including Encompass Insurance by submitting false, fraudulent and inflated chiropractic invoices containing excessive charges" and "demanding payment for excessive and/or non-existent and/or unwarranted chiropractic treatment through their chiropractic clinic."

Court documents say the Giampas are chiropractors who operate First Spine and Rehab in Lowell as well as more than 60 other clinics throughout New England and across the United States, including Florida, Oklahoma, Connecticut, Rhode Island, South Carolina, New Hampshire, Pennsylvania, Illinois and Virginia.

Special Investigators for Allstate Insurance Company, which operates Encompass Insurance, led the investigation. Encompass is represented by the law firm of Smith & Brink, P.C. in Quincy.

"Insurance fraud is not a victimless crime -- it costs consumers thousands of dollars every year through higher premiums," said Edward Moran, Allstate assistant vice-president for Special Investigations. "Encompass and the other Allstate companies are committed to providing competitively priced products to our customers -- fighting fraud is essential to that commitment."

NEWS

page 2

Since 2001, Allstate companies have received more than \$55 million in court judgments. Moran states, "these judgments against criminals range from individuals to sophisticated organized crime syndicates." In addition to financial victories, Allstate and Encompass SIU work closely with local, state, and federal authorities for criminal investigation and prosecution – resulting in arrests around the country, taking criminals off the street.

Insurance industry estimates put the overall yearly price tag for fraud at more than \$80 billion dollars.

Encompass Insurance is a division of The Allstate Corporation (NYSE: ALL) devoted exclusively to independent agents, selling automobile, homeowner and related insurance to one million customers through a network of more than 2,700 independent insurance agents. Allstate is the exclusive administrator of Encompass personal automobile and home insurance policies issued by the insurance affiliates of CNA Financial Corporation.

The Allstate Corporation is the nation's largest publicly held personal lines insurer. Widely known through the "You're In Good Hands With Allstate[®]" slogan, Allstate helps individuals in approximately 17 million households protect what they have today and better prepare for tomorrow through approximately 13,600 exclusive agencies and financial professionals in the U.S. and Canada. Customers can access Allstate products and services such as auto insurance and homeowners insurance through Allstate agencies, or in select states at allstate.com and 1-800 Allstate[®]. EncompassSM and Deerbrook[®] Insurance brand property and casualty products are sold exclusively through independent agents. Allstate Financial Group provides life insurance, supplemental accident and health insurance, annuity, banking and retirement products designed for individual, institutional and worksite customers that are distributed through Allstate agencies, independent agencies, financial institutions and broker-dealers.

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- "Our investigators estimate that more than half of the auto insurance PIP claims in the Miami area are fraudulent. So far, we've identified at least \$10 million that these suspects alone allegedly bilked from insurers at the expense of consumers throughout Florida."¹¹⁸

Extent of the Problem

- The Insurance Research Council releases studies every year that show that approximately one third of all auto accident injury claims involve fraud.



WHAT WE DON'T KNOW CAN HURT US THE ANATOMY OF FRAUD AND ABUSE AND THE INFLUENCE OF ORGANIZED CRIME IN PHYSICAL THERAPY

COMBINED SECTIONS MEETING 2006

San Diego, CA

February 1-5, 2006

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•

19 pages

- Because the MD ordered it
 - Because my boss said to do it that way
- Looking for an easy, quick buck
- Lack of training to screen for;
 - Non organic findings
 - Sxs magnification
 - Fraud

Contributing Factors

- Lack of Incentives for Insurance Companies
 - A dollar paid out on a fraudulent claim isn't necessarily a dollar lost.
 - Insurers can pass the cost on to drivers in the form of higher premiums
 - "You're not going to find insurers on the front ranks, despite what they say, to fight the fraud problem,". "That's not what they're in business to do." former Massachusetts Insurance Commissioner Peter Hiam
- Source Lawrence Eagle Tribune

Contributing Factors

- Lax prosecution and regulatory enforcement
 - Weak laws and regulations
 - Financial crimes not a priority
 - Limited resources
 - Weak deterrent

Anatomy of Fraud & Abuse

- Supply & Demand
- Treatment
- Billing
- Interconnected individuals (rings)

Supply & Demand

- \$,,\$,\$,\$,\$,\$,\$,\$
- Explosion of PT clinics in low income areas
- Aggressive advertising for Auto and WC clients
- Referral relationships with attorneys
- Soliciting clients from accident reports
- Using runners
- Rings of agents, attorneys, medical providers and claimants

Supply

- PT practice opened in 1989 on border of Boston
 - Then 2 hospitals and no PT practices (3m)
 - Now ~20 PT practices in inner city area (3m)

- Many are not providers for HMOs etc.
- Prominently advertise for auto, slip & fall, and WC cases

Supply

- One PT for multiple clinics
 - PT in the clinic only 1x wk or less
 - Day to day only PTAs in clinic
- Low overhead
 - Quick store front set ups
 - Minimal equipment

Treatment

- Most patients with very similar injuries
 - Cervical and lumbar sprains/strains
 - No objective findings on examination
 - Patients performing minimal exercise yet working physically demanding job
 - No temporal relationship with MVA
 - Low velocity yet significant injuries
 - All occupants w/ same injuries

Treatment

- Duplicative palliative modalities
 - Heat, US & E-Stim
 - Same physiologic effect
 - Evidence shows US is ineffective for conditions save CA tendonitis of shoulder
 - Used throughout course of treatment
 - US 3rd most common PM&R code billed to Medicare

Treatment

- Lack of progressive restorative treatment
 - Performing only a HEP in the clinic for weeks
 - No manipulation
 - No restorative exercises
- Involvement of PT only at minimally required 30 day re-evals or less

Treatment

- Use of non skilled "treatment"
- Mechanical massage
 - Spinalator
 - Aqua Massage
- Pain always requires treatment

Spinalator

Spinalator is a full-featured intersegmental massage unit providing maximum therapy flexibility. Provides effective treatment to the entire spine or within a limited range. Three custom contoured rollers to deliver consistently comfortable pressure. Three-motor operating system (roller elevation, roller travel, roller rotation).

Treatment

- Poor documentation
 - Illegible
 - Not objective
- PTAs performing manipulation
- Using MT for PT
- Performing strengthening exercise to muscles with normal strength

Treatment

- Progress is reported yet documentation reveals;
 - No change in exam findings
 - Within measurement error
 - No faster than natural history

Treatment

- Same treatment for case after case
- All patients take 2-3 months to resolve
- Not d/c until tort threshold met

Treatment

- Treatment continues because it is "ordered" by MD
 - No clinical justification

Treatment

- Duplicative Treatment
 - Similar treatment by PT and DC often within minutes of each other

High Medicals

- In Massachusetts, almost 85 percent of those who seek care at chiropractic or physical therapy clinics for auto injuries cross the \$2,000 tort threshold, insurance industry data shows. The rate is 90 percent for some Lawrence clinics.^{iv}

Billing

- Fees dramatically in excess of U&C
- Billing for more units of time than documentation supports total time
- Unbundling
 - Electrodes
 - ROM

— Muscle tests

Billing

- Use of mechanical massage
 - Spinalator Aqua Massage
 - Billing for hands on massage or traction

Billing

- Billing for therapeutic exercise for routine home exercises or general conditioning exercise e.g. bike riding

Billing

- Billing timed codes for significantly less than 15"
- Billing for therapeutic activities and neuromuscular reed for ther ex.
- Total time in clinic much less then units billed

Emerging Trends

- Chiro and PT offices hiring medical directors
 - the office bills in the Medical Director's name even though the services were provided by another provider, such as a DC, PT, MT...
 - the office inappropriately bills at the higher CPT code. Duplicative initial examinations and periodic reevaluations by both the physician and the primary treating DC or PT.
 - Frequently scheduled so-called "multi-disciplinary team conferences" to orchestrate continued care.^v

Emerging Trends

- PTs co-signing notes for unsupervised services
 - Individual facilities hire PTAs, aides, ATs or unlicensed individuals to provide physical therapy services, without the requisite supervision of a licensed PT. The PT may be available for telephone consultation or periodic supervision, but not be on the premises at all times for direct supervision. The PT co-signs or creates the physical therapy notes after the fact.
 - Unless the medical records are carefully reviewed and an inquiry is made as to who created the co-signed notes, it will not be apparent on the billing statement that the services were provided by someone other than the PT.^{vi}

Emerging Trends

- Referring patients for medical evaluations or other ancillary health care services to exceed the tort threshold
 - Observed in chiropractic and PT where the primary provider refers the patient to another provider for unnecessary additional supportive services or consultation. E.g. referral to a neurologist for an E.M.G. or an MRI, or to a PT following chiropractic care when there is no medical justification. The referral charges put the patient over the tort threshold.^{vii}

Emerging Trends

- Repetitive unnecessary dx testing or treatment

- Classic overutilization. The provider renders excessive treatment and orders repetitive diagnostic tests that are not medically necessary. Testing may include C.P.T. testing (nerve conduction), surface E.M.G.'s, digitalized or repetitive x-rays.
- Excessive treatment may include adjustments, traction, hot packs and electrical muscle stimulation on each and every visit,
- Every patient receives some type of durable medical equipment such as lumbar supports, pillow, soft collar or therapeutic gels.^{viii}

State Cases Cases

- A woman from Fall River was injured in an auto collision and claimed injuries, pain and suffering and lost wages. She was treated by a PT who billed and was paid in full by her insurance carrier. Four months later, the subject was a passenger involved in another automobile accident. She reported the same injuries and was again treated by the same PT who submitted duplicate treatment dates to another insurance carrier. When questioned about the bills, the PT claimed typographical errors.
- *On April 13, 1994 the woman and her physical therapist pled to charges in Waltham District Court. Both cases were continued without a finding for one year and each subject was ordered to pay \$1,000 in court costs.*

Cases

- The plaintiff claimed he was injured when, as a pedestrian his foot was run over by a car. The defendant, a lawyer, admitted that while stopped at a red light he let his foot off his brake and was about to make a right turn when he heard the sound of the plaintiff pounding on his fender. He found the plaintiff standing by his car with his foot pinned under the right front tire.
- There was neither a bruise nor cut to the foot, after x-rays were taken there was no evidence of injury, no broken bones, not even a bruise.
- Plaintiff, who had just settled a claim for a previous auto accident and had been discharged from treatment the day of the accident returned to the same clinic that had treated him previously and received more than \$3,000 in PT and other medical treatment. The physicians – the same clinic that had treated, and discharged him the day before -- reported no previous history of injury. The treatment consisted of heat and mechanical massage.

Cases

- July 2005, South Carolina, a PT was sentenced to 18 months in prison and ordered to pay \$400,000 in restitution for health care fraud. The PT billed Medicare and a private insurer for three to five hours of therapy when only a one-hour treatment was rendered

Tacoma PT fined >\$655,000

- A Tacoma PT firm owned by a former member of the Washington State Board of PT ordered to pay more than \$655,000 for health care fraud.
- Plead guilty to billing government and private insurers for private aquatic therapy sessions that actually were group sessions that should have been billed at a much lower rate.
- According to the court, Star illegally billed government-sponsored insurance programs \$227,535 between 1999 and August 2002 and wrongly billed private insurers \$200,489.
- Under the False Claims Act, damages owed to the government in health care fraud cases are multiplied. In this case, Star is paying double the \$227,535 damages to government programs.
- Wong told employees to use the wrong billing codes for private sessions.

- One therapy session, Star submitted multiple claims for 11 patients indicating they all had private sessions of 30 to 60 minutes. That single group session was billed as if there had been nine hours of one-on-one physical therapy.
- Star also submitted bills when patients were exercising alone in the pool and not working directly with a staff member.
- On some occasions when patients' insurance would not cover aquatic therapy, Star submitted claims for a different form of therapy.
- The case began with complaints from two whistle-blowers who will receive more than \$45,000 under the False Claims Act.

Cases

- Two former operators of TX medical clinics pleaded guilty to conspiracy to commit health care fraud, and paying kickbacks for the referral of Medicare and Medicaid patients in connection with several schemes that resulted in more than \$11 million of false billings. They operated six PT clinics and billed for services never performed, claims using a false diagnosis, and claims for services not ordered by a MD or not performed under the supervision of a MD.
- The defendants hired patient recruiters, known as "marketers," who were paid a kickback for each patient referred to the clinics; clinic employees were also paid kickbacks for referrals.

Cases

- A TX doctor, his atty brother, their mutual CPA, a PA, a PT, office managers, patients, staff and clients were engaged in a sophisticated scheme to defraud local, state and federal government health programs, and private insurers, of over \$46 million
- The conspiracy involved a large cross-referral scheme of auto-accident, PI and WC patients/clients between the brothers.
 - Auto-accident victims were telephoned using information from police reports, which is illegal in TX.
 - Callers would solicit the accident victims to become clients of the attorney and later patients of his brother.
 - The medical services were inflated to generate higher insurance settlements.
 - Medical and legal services relating to wc claims were also fabricated or inflated.
 - The fraudulent proceeds were laundered through a series of bank accounts and businesses within the US, Mexico and the Cayman Islands.

Lawrence

- Fraud Capital of Mass.
 - Staged accident in 2004 resulted in death of elderly women
 - Focused media on story
 - Results
 - Ramped up investigations and prosecutions
 - Auto Fraud Reform Law
 - Decrease accident rate

Lawrence

- "It's not unusual for a Lawrence police report to say 'zero' in the space marked for injuries and then later see people run up bills of \$3,000 to \$4,000 at the chiropractor," he said. "The dynamic is pretty simple: you've got a high percentage of people who are unemployed."

These are people living in poverty. Then you have a police department that's overworked and probably undermanned. So it's so easy to slip under the radar screen.

- "Staged accidents are a very low risk. Most companies don't even want to prosecute them. So the odds of getting caught are slim to none."^x

Lawrence

- Concentration of clinics is densest in Lawrence. A city of less than 7 square miles, Lawrence has twice as many clinics per square mile as Boston.
- "Business 101 says you want to open your hamburger business across the street from McDonald's, you wouldn't want to open a gas station in the middle of nowhere. You want to open where there's traffic."^x

Lawrence

- At least 35 chiropractors were working in Lawrence -- one for every 2,000 residents, 2 ½ times the national average -- along with a dozen or more PTs and several physicians handling accident cases.

Regulatory Action

- When DCs and PTs are accused of over treating patients, in the past it can take years to resolve the complaint and the punishment is likely to amount to little more than a slap on the wrist.
- Licenses are seldom revoked. In most cases, the DC is allowed to keep working on probation or with a stayed license suspension. And even if a license is revoked, the DC can stay in business by hiring other professionals because no license is required to open a chiropractic or PT clinic in Massachusetts. Nor do state regulations require that medical clinics be inspected^{*xi}

Regulatory Action

- The Massachusetts Board of Allied Health Professions has revoked the physical therapist license of Boris Eydinov of Brookline, effective May 24, 2004. The Board alleges that Eydinov failed to comply with a consent agreement he entered into in August 2001.
- In that consent agreement, Eydinov acknowledged that he engaged in over-utilization of practice, improper record keeping, improper charges and unprofessional conduct. Eydinov agreed to an 18-month suspension followed by a 30-month probationary period. During the probationary period, Eydinov was required to complete continuing education courses, receive direct supervision from a Board-approved physical therapist and provide the Board with supervisor reports on a quarterly basis. Eydinov failed to fulfill any of the conditions of the probation.

Regulatory Action

- Joanne Devin of Canton has entered into a consent agreement with the Board of Registration of Allied Health Professionals, resulting in an 18-month stayed suspension of her physical therapist license effective May 9, 2005.
- Devin admitted violating Board regulations in the treatment of four patients. Among the violations identified were inadequate documentation, excessive treatment, improper billing, and failure to reevaluate patients in an appropriate amount of time. Devin also failed to appropriately supervise a PTA.

- Devin is required to successfully complete continuing education courses and employ a compliance monitor over the first six months of the stayed suspension to review her records and practice. Devin will be eligible for a full reinstatement of her license on November 9, 2006.

Federal Cases RICO

- The Racketeer Influenced and Corrupt Organizations Act. Title 18 of the US Code, section 1961, *et. seq.*
 - section 1341 (mail fraud)
 - section 1343 (wire fraud)
 - section 1510 (obstruction of criminal investigations)
 - section 1511 (obstruction of State or local law enforcement)
 - section 1512 (tampering with a witness, victim, or an informant)
 - section 1513 (retaliating against a witness, victim, or an informant)

FCA

- Federal Statute
- Many states have a FCA
- Commonly filed by employees
 - Usually dedicated
 - Concerns not addressed

DOJ

- The Department continues to make use of the new enforcement tools provided under HIPAA.
- May be the first use of 18 U.S.C. § 1035, enacted under HIPAA, which makes it a criminal offense to submit false statements relating to health care matters
 - two Florida men were indicted for allegedly defrauding 27 private insurance and self-insured companies out of more than \$10 million by filing false medical claims, and with various acts of money laundering.

DOJ

- The scheme involved Miami Health Medical Center, Exclusive Medical Supply, Inc. and Hope Medical Supplies, Inc., Miami DME companies; and Ideal Pharmacy.
- The defendants paid kickbacks to Medicare beneficiaries to serve as patients of Miami Health and the other medical companies. For each of the patients several co-defendants falsified medical records, adding false patient complaints, fabricating diagnoses and treatment plans, and ordering unnecessary tests, medications, equipment, and physical therapy.
- Doctors signed and approved altered medical records and fraudulent prescriptions, knowing, in some instances, that the underlying patient office visits had never occurred and knowing that unnecessary medical services, medications, equipment, and physical therapy were being ordered. Then submitted claims to Medicare.
- They staged automobile accidents, paying bribes to the supposed victims to get them to complain of non-existent injuries. Based on the falsified injuries, Miami Health then submitted fraudulent claims to automobile insurance companies for the cost of unnecessary physical therapy
- The following pleaded guilty: Hedy and Orlando Ariles; Elva Monteagudo, Hedy Ariles' mother; Guillermo Garcia, a physician; Alberto Exposito, a physician's assistant; Noelia Davila and Dulce Suarez, physical therapists; clinic employees Dafne

Mesa, Elayne Sanchez, Carmen Arelis Pichardo, Margarita Campos; and patient recruiters James Lyons, Candelaria Alvarez, Olga Gonzalez, and Tomas Del Coral.

First Spine and Rehab

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Massachusetts Response Investigation & Prosecution

- The IFB established task forces, called Community Insurance Fraud Initiatives (CIFI).
 - A CIFI task force - IFB investigators, local police department and a dedicated prosecutor at the district attorney's office. The Attorney General, insurance company special investigative units and the media are considered additional pieces of the task force effort.
 - New CIFI task force offices were established in 2004 in Boston, Brockton, Lowell, Lynn and Springfield/Holyoke.
 - Through the end of 2004, 108 individuals have been charged or indicted with insurance fraud related crimes as a result of CIFI efforts.

The deterrent effect of these programs has resulted in the closure of at least nine chiropractic clinics

Legislature's Response

- Act Further Preventing Insurance Fraud
 - Directed primarily at PTs and DCs
 - Signed into law by Governor 12/04

Act to Limit Auto Insurance Fraud

- Licensure of private practices not previously licensed
 - Hospitals, SNF and certain clinics licensed by DPH
 - Private practices now licensed by DPL
- Outlawed "Runners"
- Reporting Mechanisms
- Penalties

Act Further Preventing Insurance Fraud Provisions